## IN THE UNITED STATES BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION

In re:	§	Care No. 17 22005
	§	Case No. 17-32805
JENNER LEARY VEGA	§	Chapter 13
CARMEN ELISA VEGA	§	Chapter 13
AKA CARMEN CARDENAS	§	
Debtor(s)	§	

# MOTION FOR RELIEF FROM STAY REGARDING EXEMPT PROPERTY

THIS IS A MOTION FOR RELIEF FROM THE AUTOMATIC STAY. IF YOU OBJECT TO THE GRANTING OF RELIEF FROM THE AUTOMATIC STAY, YOU SHOULD CONTACT THE MOVANT IMMEDIATELY TO TRY TO REACH AN AGREEMENT. IF YOU CANNOT REACH AN AGREEMENT, YOU MUST FILE A WRITTEN RESPONSE AND SEND A COPY TO MOVANT NOT LATER THAN NOVEMBER 2, 2018 AND YOU MUST ATTEND THE HEARING.

THE COPY SENT TO THE MOVANT MUST BE DELIVERED BY HAND OR ELECTRONIC DELIVERY IF IT IS SENT LESS THAN SEVEN DAYS PRIOR TO THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE HEARING MAY BE AN EVIDENTIARY HEARING AND THE COURT MAY GRANT OR DENY RELIEF FROM THE STAY BASED ON THE EVIDENCE PRESENTED AT THIS HEARING. IF A TIMELY OBJECTION IS FILED, THE COURT WILL CONDUCT A HEARING ON THIS MOTION ON NOVEMBER 9, 2018 AT 09:00 AM IN COURTROOM 404, 4th FLOOR, 515 RUSK, HOUSTON, TEXAS 77002.

- 1. This motion requests an order from the Bankruptcy Court authorizing the person filing this motion to foreclose on the property that is identified in paragraph 3.
- 2. Movant: Wells Fargo Bank, N.A.
- 3. Movant, directly or as agent for the holder, holds a security interest in 7126 Rancheria, Houston, Texas 77083, and more particularly described as follows:

LOT TWENTY (20), IN BLOCK THIRTY-NINE (39), OF MISSION BEND CABILDO SQUARE, SECTION 1, AN ADDITION IN HARRIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 242, PAGE 79 OF THE MAP RECORDS OF HARRIS COUNTY, TEXAS.

- 4. Movant has reviewed the schedules filed in this case. The property described in paragraph 3 is claimed as exempt by the debtor(s). Movant does not contest the claimed exemption.
- 5. Type of collateral: HOME
- 6. Debtor(s) scheduled value of property: \$152,646.00
- 7. Movant's estimated value of property: \$152,646.00
- 8. Total amount owed to Movant: \$55,401.40
- 9. Estimated equity (paragraph 7 minus paragraph 8): \$97,244.60
- 10. Total pre- and post-petition arrearage: \$2,574.97
- 11. Total post-petition arrearage: \$1,768.46
- 12. Amount of unpaid, past due property taxes, if applicable: N/A
- 13. Expiration date on insurance policy, if applicable: N/A

- 14. X Movant seeks relief based on the debtor(s)' failure to make payments. Debtor(s)' payment history is attached as exhibit "A." Movant represents that the attached payment history is a current payment history reflecting all payments, advances, charges and credits from the beginning of the loan. Movant further represents that the payment history is self-explanatory or can be interpreted by application of coding information that is also attached. Movant acknowledges that the Court may prohibit the use of parol evidence to interpret a payment history that does not satisfy these representations.
- 15. \_\_\_\_ Movant seeks relief based on the Debtor(s) failure to provide a certificate of insurance reflecting insurance coverage as required under the Debtor(s) pre-petition contracts.
- 16. Name of Codebtor: N/A
- 17. Based on the foregoing, Movant seeks termination of the automatic stay to allow Movant to foreclose or repossess the Debtor(s)' property and seeks to recover its costs and attorneys' fees in an amount not to exceed the amount listed in paragraph 9.
- 18. Movant certifies that prior to filing a motion an attempt was made to confer with the Debtor(s)' counsel either by telephone, by e-mail or by facsimile, by the following person on the following date and time: LynAlise K. Tannery on October 19, 2018 at approximately 5:40 p.m.

No response was received. If requested by Debtor(s) or Debtor(s) counsel, a payment history in the form attached to this motion was provided at least two business days excluding intermediate weekends and holidays, before this motion was filed.

Date: October 24, 2018

/s/ Shelly K. Terrill

LynAlise Tannery / TXBN 24083941 Shelly K. Terrill / TXBN 00794788 Braden P. Barnes / TXBN 24059423 Chandra D. Pryor / CABN 320903 Attorneys and Counselors 14841 Dallas Parkway, Suite 425 Dallas, Texas 75254 (972) 643-6600 (972) 643-6698 (Telecopier)

E-mail: BkcyAttorneys@BonialPC.com Attorney for Wells Fargo Bank, N.A.

## Certificate of Service and Certificate of Compliance with BLR 4001

A copy of this motion was served on the persons shown on Exhibit "1" at the addresses reflected on that exhibit on October 24, 2018 by prepaid United States first class mail or via electronic notification. Movant certifies that Movant has complied with Bankruptcy Local Rule 4001.

/s/ Shelly K. Terrill LynAlise K. Tannery Shelly K. Terrill Braden P. Barnes Chandra D. Pryor

### EXHIBIT "1"

#### Service to:

Debtor's Attorney Michael Glyn Busby Jr. Busby And Associates 2909 Hillcroft St Ste 350 Houston, TX 77057-5852

Debtors Jenner Leary Vega 7126 Rancheria Dr Houston, TX 77083-4330

Carmen Elisa Vega 7126 Rancheria Dr Houston, TX 77083-4330

US Trustee Office of the U.S.Trustee 515 Rusk Ave., Ste. 3516 Houston, Texas 77002

Chapter 13 Trustee David G. Peake 9660 Hillcroft, Suite 430 Houston, Texas 77096-3856

Synchrony Bank c/o PRA Receivables Management, LLC PO Box 41021 Norfolk, VA 23541

Linebarger Goggan Blair & Sampson, LLP PO Box 3064 Houston, TX 77253-3064

17-32805

/s/ Shelly K. Terrill LynAlise K. Tannery Shelly K. Terrill Braden P. Barnes Chandra D. Pryor